IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO. 560 OF 2004
IN
SUMMARY SUIT NO. 3383 OF 2003

A N D

SUMMARY SUIT NO. 3383 OF 2003

The Sangli Bank Limited .. Plaintiff

versus

Laxman Somazande & Anr. .. Defendants

...

Mr.Kalpesh Parekh i/b Pragna Thakkar for the plaintiff.

CORAM : D.G. KARNIK,J.

DATED : 5th April 2005.

P.C.:

1. Heard the learned counsel for the plaintiff. None present for the defendants.

2. The plaintiff hands in affidavit of service of writ of summons on both the defendants. Affidavit is taken on record and marked Exhibit-A. Despite service of writ of summons, defendantno.2 has not

filed an appearance.

3. After the service of writ of summons, the defendant no.1 filed an appearance. The plaintff hands in affidavit of service of writ of summons on defendant no.1 Affidavit is taken on record and marked Exhibit-B. Despite service, the defendant no.1 has not applied for leave to defend nor has he filed any affidavit in reply.

4. The learned counsel for the plaintiff also hands in original documents in a compilation. The documents are taken on record and collectively marked "C".

5. I have perused the plaint and the documents filed on record.

6. In the absence of any appearance, the plaintiff is entitled to a decree against defendant no.2 under Order 37 Rule 2(3) of the Code of Civil Procedure. In the absence of any application for leave to defend or any affidavit in reply, the defendant no.1 is deemed to have admitted the averments made in the plaint and the plaintiff is also entitled to a decree against him under Order 37

Rule 3(6) of the Code of Civil Procedure.

7. In the circumstances, Summons for Judgement is made absolute against defendant no.1 and the suit of the plaintiff is decreed against both the defendants in terms of prayer clause (20) of the plaint with costs.

D.G. KARNIK, J